Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	**)**	
	)	
2000 Biennial Regulatory Review--	**)**	**CC Docket No. 00-199**
Comprehensive Review of the	**)**	
Accounting Requirements and	**)**	
ARMIS Reporting Requirements for	**)**	
Incumbent Local Exchange Carriers:	**)**	
Phase 2 and Phase 3	**)**	

COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

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SUMMARY

Cincinnati Bell Telephone Company (CBT) addresses issues from the NPRM that are especially important to the mid-size carriers. CBT heralds the Commission's recognition of the inordinate burden many of the accounting and reporting requirements impose on the mid-size carriers and that it is not necessary to monitor the mid-size carriers through all of the traditional reporting mechanisms.

CBT is concerned that the Commission is not committed to deregulation of the accounting and reporting requirements as reflected by its failure to establish a definitive framework for deregulation in Phase 3 and the proposals to establish new accounts and reporting requirements. Proposals to establish new accounts and reporting requirements are contrary to the intent of the Biennial Regulatory Review provisions of the 1996 Act and should be rejected.

The affiliate transaction proposals would simplify procedures for ILECs while continuing to prevent misallocation of costs and should be adopted promptly. Especially important to the mid-size carriers is the proposal to extend the estimated fair market value exception to include all centralized services regardless of who provides the centralized service.

The Commission should classify all mid-size carriers as Class B carriers, thereby eliminating all CAM and ARMIS requirements for these carriers. Consumers would continue to be protected by the application of the Part 32 affiliate transactions rules and section 64.901 cost allocation rules and would also benefit from the savings carriers would realize from elimination of the unnecessary reporting requirements.

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COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

Cincinnati Bell Telephone Company (CBT), a mid-size, independent local exchange carrier submits these comments in response to the Phase 2 proposals of Notice of Proposed Rulemaking in the above-mentioned proceeding.[1] Phase 2 of the NPRM seeks comment on a variety of measures aimed at reforming the accounting and reporting requirements for incumbent local exchange companies in the near term.

I. INTRODUCTION

A. Recognition of the Need for Additional Mid-Size Company Relief

The Phase 2 proposals presented in the NPRM include revisions to the Part 32, Part 43 and Part 64 rules. While many of the proposals would impact all ILECs, the NPRM proposes a few changes specific to a subset of companies, namely the mid-size ILECs. CBT heralds the Commission's continued recognition of the distinction between the large companies and the mid-size companies and the unnecessary burdens many of the accounting and reporting requirements impose on the mid-size carriers.

In its 1998 Biennial Regulatory Review the Commission extended some relief to the mid-size ILECs by allowing them to maintain Class B accounts and by lessening the CAM audit standard from a financial audit to an attest engagement.[2] A few simplifications were also made to some of the ARMIS reports at that time.[3] Although these actions were a positive first step in alleviating the accounting and reporting requirements for the mid-size ILECs, the changes fell far short of the relief necessary to make a significant difference in the mid-size carriers' operations. In Phase 2 of its comprehensive accounting review the Commission recognizes that it is not necessary to continue to monitor the mid-size carriers through all of the traditional reporting mechanisms, and therefore, proposes more substantive relief for the mid-size carriers.

B. A More Definitive Commitment to Deregulation is Needed

Earlier this year the Commission released an Order implementing Phase 1 of its comprehensive review of the accounting and reporting requirements for ILECs.[4] Phase 1 extended some of the relief that had previously been granted to the mid-size ILECs to all ILECs and implemented some additional accounting reforms. When the Phase 1 Order was adopted, it was envisioned that the next phase would provide the framework for deregulation of the accounting and reporting requirements. The Commission has now concluded that significant deregulation cannot occur in only two phases. Thus, the current NPRM presents Phase 2 proposals for further streamlining of many of the requirements, but stops short of proposing a

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[1] *2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3*, CC Docket No. 00-199, *Notice of Proposed Rulemaking*, FCC 00-364, released October 18, 2000.

[2] *1998 Biennial Regulatory Review—Review of Accounting and Cost Allocation Requirements*, CC Docket No. 98-81, *Report and Order*, FCC 99-106, released June 30, 1999.

[3] *1998 Biennial Regulatory Review—Review of ARMIS Reporting Requirements*, CC Docket No. 98-117, *Report and Order*, FCC 99-107, released June 30, 1999.

[4] *Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 1*, CC Docket No. 99-253, *Report and Order*, FCC 00-78, released March 8, 2000.

much needed deregulatory framework. Instead, the NPRM introduces Phase 3 which explores the appropriate indicia for deregulation that was widely anticipated would be part of Phase 2.

While many of the Phase 2 proposals are a positive step toward reducing the unnecessary burdens the current requirements impose, several of the proposals entail new reporting requirements to replace many of the old ones that would be eliminated. As part of the 2000 Biennial Regulatory Review, the Commission's analysis should be focused on eliminating or modifying rules and regulations that have outlived their usefulness, not adding new requirements. Section 11 of the Communications Act directs the Commission to review all of its regulations that apply to the operations or activities of any provider of telecommunications service and determine if any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service. If any regulation is determined to be no longer necessary in the public interest, the regulation is to be repealed or modified.

CBT does not believe that replacing one set of requirements with another constitutes a modification in the sense anticipated in the Biennial Review. A modification should represent a lessening of the burden of the requirement. In addition, the requirements should be viewed in light of the competitive environment. Clearly, requiring a subset of all telecommunications carriers, namely the ILECs, to report data, which heretofore has never been reported, cannot be justified in the name of competition. As directed by Section 11, as competition develops, regulations should be reduced. Furthermore, the public interest benefit of imposing new reporting requirements on the ILECs cannot be justified simply on the basis that the information would be useful in various types of analysis. While the Commission might find this information useful, collecting it from ILECs only is not justified. The additional costs and the disparate

treatment the new requirements would impose on ILECs versus CLECs outweighs any benefit regulators may gain from this new data. Because the new requirements are not competitively neutral, they would be contrary to competition and, in turn the public interest.

CBT is concerned that the Commission has lost sight of the ultimate goal of deregulation. Even if the Commission has decided that it cannot eliminate all of its accounting and reporting requirements for ILECs in Phase 2, adding new reporting requirements in Phase 2 is hardly a step toward the deregulation the Commission purports to contemplate in Phase 3. Why add new requirements now if the next logical step in the process is the elimination of all reporting requirements? To avoid this backsliding CBT recommends that the Commission apply the Biennial Review analysis whenever any new rules are proposed. Applying this analysis to the new reporting requirements proposed in Phase 2 would indicate that the new rules are not justified in the public interest.

Although several of the proposals in Phase 2 call into question the Commission's overall commitment to deregulation of the accounting and reporting requirements for ILECs in a timely fashion, many of the proposals represent a positive step forward. In general, if the truly deregulatory proposals are implemented without the backsliding of adding new requirements, the result would be a significant step toward timely deregulation of the accounting and reporting requirements, particularly for the mid-size carriers.

In the comments that follow, CBT limits its discussion to the proposals that especially impact the mid-size carriers. On the other proposals in Phase 2, CBT defers to the comments of the United States Telecom Association (USTA) which it fully supports.

II. PART 32 CHANGES

A. No New Accounts or Subaccounts Should Be Added

The NPRM recommends that the current Class B account structure be retained for those carriers currently reporting at the Class B level. However, in paragraph 20, it asks whether the new accounts proposed by the states should be required by both Class A and Class B carriers. While none of these accounts should be adopted for any carriers, CBT submits that to require the Class B carriers to add these new accounts is entirely unjustified and would represent a major digression in the Commission's effort to reduce regulatory burdens on the mid-size ILECs.

Most of the information that the states seek to garner from the proposed accounts is already available within existing ILEC records which are based on separate function codes. If a state has a need for specific information from a carrier on an ad hoc basis, the carrier would be able to provide the data. However, to require all carriers to add new accounts to accommodate the specific instances in which a state commission might find the data from an individual carrier useful for a particular analysis is not justified. A tremendous amount of work would be required of the ILECs to add these new accounts. This burden would be particularly severe for the Class B carriers, especially those like CBT who just moved to the simplified Class B accounts.

Although modifying its systems to add any of the proposed accounts would be costly for an ILEC to implement, adding subaccounts to differentiate loop and interoffice transport within the central office transmission, cable and wire facilities, and information origination/termination accounts would be extraordinarily difficult. Interoffice, feeder and distribution segmentation of cable and wire facilities could only be obtained via manual inspection of the cable plats. Such an inspection would be very costly whether done internally or contracted out. The addition of these subaccounts would serve no general regulatory purpose, and therefore, the burden such a

requirement would impose on the incumbent LECs cannot be justified. If information on loop versus interoffice transport is needed by a state commission for a specific purpose it should be up to the state commission to request the information from the carriers in its state on an as needed basis.

B. Affiliate Transactions Rules Should Be Modified

The NPRM presents several proposals impacting affiliate transactions. All of these proposals would simplify the affiliate transaction procedures without compromising the ability of the rules to prevent misallocation of costs between regulated and nonregulated activities. CBT fully supports these proposals and encourages the Commission to promptly adopt the proposed changes.

While all of the proposed changes will reduce compliance costs for the ILECs, CBT believes that extending the estimated fair market value (EFMV) exception for services to include all centralized services, regardless of whether the services are from a separate service affiliate, is especially important to mid-size carriers. CBT filed a Petition for Reconsideration seeking this change when the current exception was adopted in 1996.[5] Estimating the fair market value of services is an extremely time consuming process that adds significantly to carrier compliance costs with no discernable benefit to consumers. The rationale for the current exception is to allow ratepayers to benefit from the economies of scale and scope that can be achieved by

[5] Petition for Reconsideration of the Report and Order in the Matter of Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, CC Docket No. 96-150, filed by Cincinnati Bell Telephone Company February 20, 1997. The Commission denied this petition and several others on January 18, 2000 (see *Second Order on Reconsideration*, FCC 00-9, released January 18, 2000), indicating that it would consider this as part of the comprehensive review of its accounting and reporting requirements.

providing services on a centralized basis.[6] CBT wholeheartedly agrees with this rationale and submits that there is no reason to not allow ratepayers to enjoy the same benefits when the corporation decides that the greatest economies can be achieved by providing the centralized services via the regulated carrier, another affiliate, or the holding company parent itself.

Extending the EFMV exception as proposed by USTA is particularly important to the mid-size companies, which may not be able to justify the expense of creating a separate service affiliate, but provide centralized services solely for affiliated companies, albeit through the regulated carrier or the holding company. The cost of establishing a separate service affiliate does not vary depending upon the size of the company, therefore, it is more difficult for a smaller carrier to support a business case for creating a separate service affiliate. Thus, by choosing the most efficient structure for provision of services, which for many mid-size companies is not a separate service affiliate, the mid-size carrier ratepayers are denied the full benefits of the centralized services because the carrier is required, solely due to regulatory mandates, to perform costly EFMV studies.

As long as the centralized services are provided only to affiliates, there is no difference between providing these services via a separate service affiliate, the carrier, or the holding company parent. Ordinary business drivers, not regulation, should determine what is the most efficient structure for providing these services. Only in this manner will consumers enjoy the full benefits of the economies of scale and scope that can be achieved via centralized services provisioning. Extending the EFMV exception as proposed by USTA will enable more ratepayers to realize the benefits of the economies of scale and scope a carrier may gain from centralized service provisioning and the elimination of the costs of performing the EFMV studies.

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[6] *Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, *Report and Order*, FCC 96-490, released December 24,

III. MID-SIZE CARRIER PROPOSALS

A. All Mid-Size ILECs Should Be Classified as Class B Carriers

The NPRM proposes additional reductions in the CAM and ARMIS requirements for mid-size ILECs. As noted above, the FCC earlier granted some limited relief to the mid-size carriers, but still maintained the bulk of the reporting requirements. The current proposals take a much more significant step toward deregulation of the reporting requirements for the mid-size ILECs, although they still stop short of the relief the mid-size ILECs requested in their forbearance petition in 1998 and as recommended by the United States House of Representatives in H.R. 3850.[7] CBT maintains that elimination of the CAM and ARMIS requirements for carriers with less than 2% of the nation's access lines will not harm the public interest and will in fact benefit consumers by freeing up resources that mid-size carriers can deploy in ways that better serve consumers, such as the development of advanced services.

At the public meeting in preparation for this NPRM the mid-size ILECs proposed that all mid-size carriers be treated as Class B carriers, thereby eliminating all CAM and ARMIS requirements. CBT continues to believe that this is the appropriate course of action for the Commission as it relates to the mid-size ILECs. These carriers would continue to maintain their accounts according to the USOA Class B accounts and would still be subject to the affiliate transaction requirements of Part 32 and the cost allocation provisions of section 64.901 which ensure that ratepayers are protected from cross-subsidization between the carriers' regulated and nonregulated operations. However, consumers would also benefit from the savings carriers would realize from elimination of the reporting requirements. Some may argue that the savings are insignificant when compared to the total costs the companies incur. However, from a

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1996 at ¶148.
[7] H.R. 3850, 106th Cong. (2000).

business perspective, every dollar is significant as a business tries to control costs to remain competitive. In today's telecommunications marketplace, every dollar avoided in unnecessary costs can be put to more efficient use developing new products and services.

Reduced regulation and rapid deployment of advanced telecommunications services to all consumers is the intent of the Telecommunications Act of 1996. Although competition may not be developing as quickly in all regions of the country as many had hoped, that does not mean that the consumers in regions where competition may be maturing more slowly should not enjoy the innovations that the evolving telecommunications market is provoking. The environment has changed drastically since the passage of the 1996 Act and even the smaller companies realize that they must be in the forefront of the telecommunications revolution. Just because all of the mid-size companies may not be experiencing the level of competition that the larger companies are seeing does not mean that the mid-size carriers can be complacent. They must deliver the services that consumers want in the most efficient manner possible.

Every dollar spent on unnecessary reporting is one less dollar spent delivering services to consumers. As long as the protections against cross-subsidization remain in place and the Commission and state commissions retain their enforcement authority there is no consumer benefit to be derived from requiring carriers to report even minimal data to the Commission. If there is evidence of consumer harm by a particular carrier, the Commission can request whatever information it requires to investigate.

B. The CAM Should be Eliminated for Mid-Size Carriers

In lieu of completely eliminating the CAM and ARMIS requirements by classifying all mid-size ILECs as Class B carriers, the NPRM offers several alternatives. Although the Commission proposes eliminating the requirement that mid-size LECs file their CAMs, it asks if

carriers should be required to maintain cost allocation manuals in the format required by section 64.903. CBT submits that requiring carriers to maintain manuals according to the requirements of section 64.903 defeats the intent of reducing regulatory burdens for the mid-size carriers. The burdensome and time consuming part of the CAM is not filing the CAM with the Commission, but rather the compilation of the manual in a specific format. CBT estimates that 97% of the time it spends on the CAM is spent compiling the manual. The mid-size carriers should only be required to comply with the cost allocation rules of section 64.901. Although the carriers would have to maintain internal procedures to ensure that costs are properly assigned between regulated and nonregulated activities in order to comply with section 64.901, there is no need for the Commission to mandate that carriers maintain information in a specific format.

The Commission also asks if an annual certification should be required to ensure that carriers are complying with its cost allocation rules. CBT does not believe that a certification is necessary since sections 220, 401, 501 and 502 of the Communications Act compel compliance with the Commission's rules and specify penalties for non-compliance. However, if the Commission decides that additional assurances are needed to guarantee that carriers are complying with its rules, a certification would be a far less costly means of ensuring compliance than requiring an audit or attest engagement.

C. Mid-Size Carriers Should be Exempt from ARMIS Reporting

Rather than eliminating all ARMIS reports for the mid-size carriers, the Commission proposes to retain the requirement that mid-size carriers file the ARMIS 43-01 (Summary Report) and possibly the 43-08 (Operating Data Report). Requiring the mid-size carriers to report data via the ARMIS reports does little to protect consumers or even aid the Commission in detecting practices that could harm consumers. As indicated in Section I of these comments,

burdening carriers with these data reporting requirements (even an aggregated summary report) because they provide regulators with a ready source of data for trend analysis or forecasting cannot justify the burdens the requirements place on carriers. This is especially true of the data collected from the few mid-size carriers that are required to file ARMIS reports.

The mid-size carrier data is an insignificant portion of the total data collected. Carriers with less than 2% of the nation's access lines make up only 2.4 % of the total access lines and 2.1% of the total operating revenue of the reporting companies.[8] The characteristics of these mid-size carriers are quite different from the large carriers and for that matter very different from each other. Therefore, the data collected from a handful of mid-size carriers cannot be of great value for any type of industry analysis. CBT, for example, is a price cap carrier serving a little over a million access lines in a single MSA. Data from CBT is so insignificant when combined with that of the larger companies that it does not impact any analysis.[9] On the other hand, when CBT data is combined with the data of the other mid-size reporting companies, it is so dissimilar that it can be of little or no predictive value. Likewise, there are differences between the other reporting mid-size companies that make the use of their data for industry analysis impractical and inadvisable. If the Commission needs information on a specific carrier for enforcement purposes, it has the ability to request such data as needed without burdening an entire class of carriers.

[8] Federal Communications Commission *Statistics of Communications Common Carriers* report released August 11, 2000.

[9] For example, when prescribing the 6.5% X-factor price cap LECs the Commission used BOC only data because including non-BOC data did not significantly effect the result. See, *Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, *Fourth Report and Order*, FCC 97-159, released May 21, 1997 at ¶135.

IV. CONCLUSION

CBT urges the Commission to follow the directions contained in the Biennial Regulatory Review section of the Communications Act and expeditiously eliminate the burdensome and unnecessary accounting and reporting requirements contained in Part 32, Part 43 and Part 64 of its rules. Because the burden of complying with these rules far exceeds the benefits to consumers, particularly for the mid-size carriers' customers, the Commission should immediately classify all mid-size carriers as Class B carriers and relieve these carriers from the CAM and ARMIS requirements.

Respectfully submitted,

By: _____/s/_____

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